



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 100

[Docket Number USCG-2015-0705]

RIN 1625-AA08

Special Local Regulations; Marine Events held in the Sector Long Island Sound Captain of the Port Zone

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

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SUMMARY: The Coast Guard is establishing five special local regulations for five separate marine events within the Coast Guard Sector Long Island Sound (LIS) Captain of the Port (COTP) Zone. This temporary final rule is necessary to provide for the safety of life on navigable waters during these events. Entry into, transit through, mooring or anchoring within these regulated areas is prohibited unless authorized by COTP Sector Long Island Sound.

DATES: This rule is effective without actual notice from **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]** until 4:30 p.m. on August 28, 2015. For the purposes of enforcement, actual notice

will be used from the date the rule was signed, July 29, 2015, until **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG-2015-0705]. To view documents mentioned in this preamble as being available in the docket, go to

<http://www.regulations.gov>, type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, contact Petty Officer Ian Fallon, Prevention Department, Coast Guard Sector Long Island Sound, telephone (203) 468-4565, e-mail [Ian.M.Fallon@uscg.mil](mailto:Ian.M.Fallon@uscg.mil). If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

COTP	Captain of the Port
DHS	Department of Homeland Security
FR	<u>Federal Register</u>
NPRM	Notice of Proposed Rulemaking

#### A. Regulatory History and Information

This rulemaking establishes five special local regulations for three regattas and two swim events. Each event and its corresponding regulatory history are discussed below.

Smith Point Triathlon (Swim) is a reoccurring marine event with regulatory history. A safety zone was established for Smith Point Triathlon in 2014 when the Coast Guard issued a temporary final rule entitled, "Safety Zone; Smith Point Triathlon; Narrow Bay; Mastic Beach, NY." The NPRM in that rulemaking was published on April, 25, 2014 in the Federal Register (79 FR 22927).

Island Beach Two Mile (Swim) is a recurring marine event with regulatory history. A safety zone was established for this event on August 9, 2014 via a temporary final rule entitled, "Special Local Regulations and Safety Zones; Marine Events in Captain of the Port Long Island Sound Zone." This rule was published on August 12, 2014 in the Federal Register (79 FR 46997).

Riverside Yacht Club JSA of LIS Opti Champs (Regatta) is a new event with no regulatory history.

Riverfront Dragon Boat and Asian Festival (Regatta) is a recurring marine event with regulatory history. A special local regulation was established in 2014 for the Riverfront Dragon Boat

and Asian Festival when the Coast Guard enforced 33 CFR 100.100(a)(1.7). This event has been included in this rule due to deviation from the location in this cite.

War Writers Campaign Kayak for Cause (Regatta) is a new event with no regulatory history.

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because doing so would be impracticable and contrary to the public interest. There is insufficient time to publish an NPRM and solicit comments from the public before these events take place. Thus, waiting for a comment period to run would inhibit the Coast Guard's ability to fulfill its mission to keep the ports and waterways safe.

Under 5 U.S.C. 553(d)(3), and for the same reasons stated in the preceding paragraph, the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the Federal Register.

## B. Basis and Purpose

The legal basis for this temporary rule is 33 U.S.C. 1233 which authorizes the Coast Guard to define regulatory special local regulations.

As discussed in the Regulatory History and Information section, three regattas and two swim events will take place in the Coast Guard Sector LIS COTP Zone between August 2, 2015, and August 28, 2015. The COTP Long Island Sound has determined that the five special local regulations established by this temporary final rule are necessary to provide for the safety of life on navigable waterways during those events.

Smith Point Triathlon will have the swim portion of the triathlon at Smith Point County Park in Shirley, NY. The race participants will stay within 500 feet of the shore. There will be life guards in kayaks as safety boats.

Island Beach Two Mile Swim is a swim event in Long Island Sound south of Greenwich, CT. The swim course starts at Little Captain's Island and follows a course towards Belle Haven, CT turning back towards Captain's Island after a mile. There will be two safety boats at each end of the swim course and fifteen life guards in kayaks along the swim course.

Riverside Yacht Club JSA of LIS Opti Champs is a sailing event will be held in Captain Harbor south of Greenwich, CT using

Optimist sailboats. There will be five boats in support of this event and four safety boats.

Riverfront Dragon Boat and Asian Festival is a dragon boat race and regatta that will be held on the Connecticut River in Hartford, CT. There will be three safety boats in support of this event.

War Writers Campaign Kayak for Cause is a kayak event that starts in Bridgeport, CT and ends in Port Jefferson, NY across Long Island Sound. There will be four safety boats accompanying the race participants across Long Island Sound.

#### C. Discussion of the Temporary Final Rule

This rule establishes five special local regulations for three regattas and two swim events. The locations of these special local regulations are as follows:

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#### **Special Local Regulations**

1	Smith Point Triathlon	Location: All waters of Narrow Bay near Smith Point Park in Shirley, NY within the area bound by land along its southern edge and points in position 40°44'14.28"N 072°51'40.68"W northerly through position 40°44'20.83"N 072°51'40.68"W, then easterly through position 40°44'20.83"N 072°51'19.73"W, then southerly through position 40°44'14.85"N 072°51'19.73"W (NAD 83).
2	Island Beach 2 Mile Swim	Location: All waters of Captain Harbor between Little Captain's

		Island and Bower's Island that are located within the box formed by connecting four points in the following positions. Beginning at 40°59'23.35" N 073°36'42.05" W, then northwest to 40°59'51.04" N 073°37'57.32" W, then southwest to 40°59'45.17" N 073°38'01.18" W, then southeast to 40°59'17.38" N 073°36'45.90" W, then northeast to the beginning point at 40°59'23.35" N 073°36'42.05" W (NAD 83).
3	Riverside Yacht Club JSA of LIS Opti Champs	Location: All waters of Captain Harbor near Greenwich, CT within a 1 mile radius of position 41°00'07.5"N; 073°36'27.4"W. (NAD 83)
4	Riverfront Dragon Boat and Asian Festival	• Location: All waters of the Connecticut River, Hartford, CT, between the Bulkeley Bridge 41°46'10.10"N; 072°39'56.13"W and the Wilbur Cross Bridge 41°45'11.67"N; 072°39'13.64"W. (NAD 83)
5	War Writers Campaign Kayak For Cause	Location: All waters of Long Island Sound along the regatta route from Bridgeport, CT to Port Jefferson, NY along positions 41°09'40"N; 073°11'04"W, then south east near Stratford Shoal at position 41°03'41"N; 073°06'24"W then south to Port Jefferson at position 40°58'37"N; 073° 05'49"W. (NAD 83)

This rule establishes additional vessel movement rules within areas specifically under the jurisdiction of the special local regulations during the periods of enforcement unless authorized by the COTP or designated representative.

Public notifications will be made to the local maritime community prior to each event through the Local Notice to

Mariners and Broadcast Notice to Mariners.

#### D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes and executive orders.

##### 1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders.

The Coast Guard determined that this rulemaking is not a significant regulatory action for the following reasons: 1) the enforcement of these regulated areas will be relatively short in duration, 2) persons or vessels desiring entry into the "No Entry" area or a deviance from the stipulations within the "Slow/No Wake Area" may be authorized to do so by the COTP Sector Long Island Sound or designated representative, 3) vessels can operate within the regulated area provided they do so in accordance with the regulation and 4) before the effective period, public notifications will be made to local mariners



through appropriate means, which may include but are not limited to the Local Notice to Mariners as well as Broadcast Notice to Mariners.

## 2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This temporary final rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to enter, transit, anchor, or moor within a regulated area during the periods of enforcement, from August 2, 2015 to August 28, 2015. However, this temporary final rule will not have a significant economic impact on a substantial number of small entities for the same reasons discussed in the REGULATORY PLANNING AND REVIEW section.

## 3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory

Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT, above. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

#### 4. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

#### 5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

#### 6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the "FOR FURTHER INFORMATION CONTACT" section to coordinate

protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

#### 7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

#### 8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

#### 9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b) (2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

#### 10. Protection of Children from Environmental Health Risks

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety

Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

#### 11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

#### 12. Energy Effects

This action is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

#### 13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

#### 14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have determined that this action is one of a category

of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves the establishment of special local regulations. This rule is categorically excluded from further review under paragraph 34(h) of Figure 2-1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under ADDRESSES. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

#### List of Subjects

#### 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recording requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR parts 100 as follows:

#### PART 100--SAFETY OF LIFE ON NAVIGABLE WATERS

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233.

2. Add § 100.35T01-0705 to read as follows:

§ 100.35T01-0705 Special Local Regulations; Marine Events in Captain of the Port Long Island Sound Zone.

(a) Regulations. The general regulations contained in 33 CFR 100.35 as well as the following regulations apply to the marine events listed in Table to §100.T01-0705.

(b) Enforcement periods. This section will be enforced on the dates and times listed for each event in Table to §100.T01-0705.

(c) Definitions. The following definitions apply to this section:

Designated representative. A "designated representative" is any commissioned, warrant or petty officer of the U.S. Coast Guard who has been designated by the Captain of the Port (COTP), Sector Long Island Sound, to act on his or her behalf. The designated representative may be on an official patrol vessel or may be on shore and will communicate with vessels via VHF-FM radio or loudhailer. While members of the Coast Guard Auxiliary will not serve as the designated representative, they may be present to inform vessel operators of this regulation.

Official patrol vessels. Official patrol vessels may consist of any Coast Guard, Coast Guard Auxiliary, state, or local law enforcement vessels assigned or approved by the COTP.

(d) Operators of non-event vessels transiting through the area during the enforcement period are required to travel at no wake speeds or 6 knots, whichever is slower and that vessels

shall not block or impede the transit of event participants, event safety vessels or official patrol vessels in the regulated area unless authorized by the Captain of the Port (COTP) or designated representatives.

(e) All persons and vessels shall comply with the instructions of the COTP Sector Long Island Sound or designated representative. These designated representatives are comprised of commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing lights or other means, the operator of a vessel shall proceed as directed.

(f) Non-event vessels desiring to transit through the "No Wake Area" at faster than no wake speeds must contact the COTP Sector Long Island Sound by telephone at (203)-468-4401, or designated representative via VHF radio on channel 16, to request authorization. A designated representative may be on an official patrol vessel or may be on shore and will communicate with vessels via VHF-FM radio or loudhailer. In addition, members of the Coast Guard Auxiliary may be present to inform vessel operators of this regulation. If authorization to transit through at faster than no wake speed within the regulated areas is granted by the COTP Sector Long Island Sound or designated representative, all persons and vessels receiving such

authorization must comply with the instructions of the COTP Sector Long Island Sound or designated representative.

(g) The Coast Guard will provide notice of the regulated area prior to the event through appropriate means, which may include but is not limited to the Local Notice to Mariners and Broadcast Notice to Mariners.

(h) The additional stipulations listed in the table to §100.35T01-0705 also apply for the event in which they are listed.

**TABLE to §100.35T01-0705**

(1) Smith Point Triathlon	<ul style="list-style-type: none"><li>• Date: August 2, 2015</li><li>• Time: 6:20 a.m. to 9:30 a.m.</li><li>• Location: All waters of Narrow Bay near Smith Point Park in Shirley, NY within the area bound by land along its southern edge and points in position 40°44'14.28"N 072°51'40.68"W northerly through position 40°44'20.83"N 072°51'40.68"W, then easterly through position 40°44'20.83"N 072°51'19.73"W, then southerly through position 40°44'14.85"N 072°51'19.73"W (NAD 83).</li><li>• Additional stipulations: All persons transiting through the area shall maintain a minimum distance of 100 yards from the swimmers.</li></ul>
(2) Island Beach 2 Mile Swim	<ul style="list-style-type: none"><li>• Date: August 8, 2015</li><li>• Time: 7:45 a.m. to 10:45 a.m.</li><li>• Location: The following area is a safety zone: All waters of Captain Harbor between Little Captain's Island and Bower's Island that are located within the box formed by connecting four points in the following positions. Beginning at 40°59'23.35" N 073°36'42.05" W, then northwest to 40°59'51.04" N 073°37'57.32" W, then</li></ul>



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	<p>southwest to 40°59'45.17" N 073°38'01.18" W, then southeast to 40°59'17.38" N 073°36'45.90" W, then northeast to the beginning point at 40°59'23.35" N 073°36'42.05" W (NAD 83).</p> <ul style="list-style-type: none"> <li>• Additional stipulations: All persons transiting through the area shall maintain a minimum distance of 100 yards from the swimmers.</li> </ul>
(3) Riverside Yacht Club JSA of LIS Opti Champs	<ul style="list-style-type: none"> <li>• Date: August 9 - 10, 2015</li> <li>• Time: 8:30 a.m. to 4:30 p.m.</li> <li>• Location: All waters of Captain Harbor near Greenwich, CT within a 1 mile radius of position 41°00'07.5"N; 073°36'27.4"W. (NAD 83)</li> </ul>
(4) Riverfront Dragon Boat and Asian Festival	<ul style="list-style-type: none"> <li>• Date: August 15, 2015</li> <li>• Time: 7:30 a.m. to 5:30 p.m.</li> <li>• Date: August 16, 2015</li> <li>• Time: 8:30 a.m. to 4:30 p.m.</li> <li>• Location: All waters of the Connecticut River, Hartford, CT, between the Bulkeley Bridge 41°46'10.10"N; 072°39'56.13"W and the Wilbur Cross Bridge 41°45'11.67"N; 072°39'13.64"W. (NAD 83)</li> </ul>

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| (5) War Writers<br>Campaign Kayak<br>For Cause | <ul style="list-style-type: none"><li>•Date: August 28, 2015</li><li>•Time: 7:30 a.m. to 4:30 p.m.</li><li>•Location: All waters of Long Island Sound along the regatta route from Bridgeport, CT to Port Jefferson, NY along positions 41°09'40"N; 073°11'04"W, then south east near Stratford Shoal at position 41°03'41"N; 073°06'24"W then south to Port Jefferson at position 40°58'37"N; 073°05'49"W. (NAD 83)</li><li>•Additional stipulations: All persons transiting through the area shall maintain a minimum distance of 100 yards from the kayakers.</li></ul> |
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Dated: July 29, 2015.

E. J. Cubanski, III,  
Captain, U. S. Coast Guard,  
Captain of the Port Sector Long Island Sound.

[FR Doc. 2015-19986 Filed: 8/12/2015 08:45 am; Publication Date:  
8/13/2015]